

Judge Robb, cont.

ture Society, a Master Fellow of the Indiana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the

2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and chaired the 2010 ABA's Appellate Judges Council-Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a lieutenant on active duty in the United States Navy.

After oral argument

After oral argument, a designated "writing judge" drafts an opinion for the others to consider.

Generally, opinions affirm or reverse lower court rulings in whole. But some affirm in part, reverse in part, or both. Not infrequently, the opinion instructs the trial court about next appropriate steps.

Many opinions are unanimous, although non-unanimous opinions (2-1) are not uncommon. Judges sometimes write separate concurring or dissenting opinions that emphasize different points of law or facts than the main opinion.

(Historically, the ideas contained in dissents have sometimes been adopted as the law of the land – over time – on a particular issue.)

Once issued, all opinions are published on the court's website and are permanently maintained by the Clerk of Appellate Courts.

Parties can appeal Court of Appeals decisions to the Indiana Supreme Court by filing a petition to transfer. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

SYNOPSIS

On Oct. 18, 2013, Indiana State Police Trooper James Wells was patrolling I-74 in Dearborn County when he observed a gold Chevy Malibu and a black Nissan Maxima traveling together. The vehicles were bumper to bumper and made lane changes together. Both vehicles had Illinois license plates. Trooper Wells suspected drug trafficking and pulled over both vehicles two miles from the Indiana-Ohio border.

Adalberto Raygoza was driving the Maxima, and Maneul Maldonado was driving the Malibu. Raygoza denied that he was traveling with the driver of the Malibu, while Maldonado confirmed they were traveling together. After speaking with Raygoza and Maldonado, Trooper Wells contacted the Regional Enforcement Narcotics Unit (RENU) and requested a K9 to assist with the stop. The K9 unit arrived as Trooper Wells obtained consent to search the vehicles. The police found two kilos of cocaine in the trunk of the Malibu and arrested both men.

RENU decided to conduct a "controlled delivery" to ascertain the final recipient of the cocaine. Raygoza agreed to cooperate with the investigation and told the police that he was transporting the cocaine for David Reyes-Valdes.

Raygoza told the police that Reyes-Valdes initially instructed him to deliver the cocaine to a Residence Inn in Cincinnati but subsequently changed the delivery location to a private residence in the suburb of Norwood. RENU agents set up surveillance around the house and spotted Reyes-Valdes.

At the request of RENU agents, Raygoza called Reyes-Valdes to change the delivery location to a White Castle restaurant. After the call, the officers watched Reyes-Valdes leave the house, walk to a nearby parking lot, and get in the backseat of a white Chevy Equinox. When the Equinox pulled up to the White Castle, Reyes-Valdes was placed under arrested and searched. Officers located a set of car keys in his pocket and a cell phone in the backseat. The car keys were for a silver Volkswagen Passat parked at the Norwood house,

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Court of Appeals of Indiana

Hearing oral argument at

Paoli High School

Wednesday, April 8, 2015 @ 9:30 a.m.



Reyes-Valdes v. State

15A01-1406-CR-237

On Appeal from Dearborn Superior Court

The Honorable Sally Blankenship, Judge

Judge Brown, cont.

pute Resolution Committee of the Indiana Judicial Conference; and on the Indiana Supreme Court Judges and Lawyers Assistance Program Committee. She is a life member of the IU Alumnae Association, and, in honor of her father, is a longtime member of the American Legion Auxiliary.

Since 1998, Judge Brown has been an Indiana Registered Civil Mediator. She served on the Board of Directors of the Indiana Judicial Conference and on the Board of Managers of the Indiana Judges Association. She is a former member of the Indiana Supreme Court Character and Fitness Committee, as well as the Judicial Administration Committee and the Appointed Judicial Officers Task Force of the Indiana Judicial Conference. She was a Leader in the Brooks Inn of Court in Evansville and a Bencher in the Sagamore Inn of Court in Indianapolis. She was an officer for four years of the Dubois County Bar Association, serving as President in 1985.

A 1993 graduate of the Richard G. Lugar Excellence in Public Service Series, she served on that organization’s Board of Governors from 1993 to 1998. In 1992, Judge Brown received the Outstanding Young Hoosier

Award from the Indiana Jaycees, one year after the Jaycees presented her with its Distinguished Service Award.

A Dubois County native, she is the proud mother of two children, an elementary teacher and a physician- graduate of the IU School of Medicine; mother-in-law to an engineer and another physician- graduate of the IU School of Medicine; and a very involved grandmother of two little girls.

Judge Najam, cont.

In 2001, he organized and co-chaired “Caught in the Middle: A National Symposium on the Role of State Intermediate Appellate Courts,” attended by judges from 22 states, the first such national conference.

He has served as a member of the Indiana Supreme Court Committee on Rules of Practice and Procedure (1995 to 2005) and the Indiana Supreme Court Judicial Technology and Automation Committee (1999 to 2005), and he represents the judiciary on the Indiana Department of Homeland Security Counter-Terrorism and Security Council.

Judge Najam is a member of the American, Indiana, and Monroe County Bar Associations, a graduate of the Indiana Graduate Program for Judges, a Fellow of the American, Indiana and Indianapolis Bar Foundations, a mem-

ber of the Indiana University Maurer School of Law Board of Visitors, a member of Phi Delta Phi legal fraternity, and an Eagle Scout. Judge Najam and his wife live in Bloomington.

Synopsis, cont.

and the cell phone had been used to contact Raygoza’s phone number.

RENU agents obtained a search warrant for the Passat. They found a bill for an Extended Stay motel as well as Reyes-Valdes’s wallet, which contained a fake ID, a key card for the Extended Stay motel, and a key card for the Residence Inn. No drugs were found. The search warrant also covered Room 221 of the Extended Stay motel. Officers used the Extended Stay key card found in Reyes-Valdes’s wallet to open the door. Inside, officers found a FoodSaver vacuum sealer, bags for the vacuum sealer, gallon size freezer bags, a digital scale and a ledger.

The State charged Reyes-Valdes with conspiracy to commit dealing in cocaine and dealing in cocaine as an accomplice. At trial, Raygoza and Maldonado testified for the State, and Reyes-Valdes was found guilty on both counts. Raygoza testified that the cocaine cost \$65,000 and that Reyes-Valdes offered to pay him an additional \$5,000 to transport it from Chicago to Cincinnati. Maldonado testified that Raygoza offered him \$2,000 to be the driver. Reyes-Valdes has no criminal history and denies any involvement. He received 50 years in the Indiana Department of Correction on each count, to be served concurrently.

On appeal, Reyes-Valdes argues that his convictions violate Indiana’s constitutional prohibition against double jeopardy, that the evidence presented at trial was insufficient to support his convictions, and that his sentence was inappropriate.

COURT OF APPEALS
MISSION STATEMENT:

“TO SERVE ALL PEOPLE BY
PROVIDING EQUAL JUSTICE
UNDER LAW”

Today’s Panel of Judges



The Honorable
Margret G. Robb

Tippecanoe County



The Honorable
Edward W.
Najam, Jr.

Monroe County



The Honorable
Elaine B. Brown

Dubois County

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as chief judge; the first woman to hold that position in the Court’s more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicial

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Edward W. Najam Jr., was nominated and appointed to the Court of Appeals of Indiana in 1992 and was retained by the electorate in 1996 and 2006. He is presiding judge of the court’s First District, which covers all of southern Indiana.

Judge Najam graduated from the Indiana University High School in Bloomington, where he was raised, and attended Indiana University Bloomington. While at IU, he was elected to Phi Beta Kappa, elected Student Body President, and earned a B.A. in political science in 1969, With Highest Distinction. He also received the Herman B Wells Senior Recognition Award for academic excellence and campus leadership.

Judge Najam earned his J.D. from the Harvard Law School in 1972. After admission to the Bar, he was Administrative Assistant to the Mayor of Bloomington for two years and an attorney in private practice for 18 years.

He served as a member of the Civil Justice Reform Act Advisory Group and the Local Rules Advisory Committee of the United States District Court for the Southern District of Indiana.

He was a member of the Bloomington Rotary Club, the Greater Bloomington Chamber of Commerce, and President of the Monroe County YMCA Board of Directors. Judge Najam is a director of the Community Foundation of Bloomington and Monroe County.

As Chair of the Appellate Practice Section of the Indiana State Bar Association, he initiated the Appellate Rules Project, which culminated in a complete revision of the Indiana Rules of Appellate Procedure in 2000, the first comprehensive review of the appellate rules in 30 years.

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Elaine B. Brown was appointed to the Court of Appeals by Gov. Mitch Daniels in May 2008 and was retained by statewide vote in 2010. Before joining the Court, she was a trial court judge for over 15 years and practiced law for 11 years. She is an adjunct faculty member of the Indiana University Maurer School of Law, a 1996 graduate of the Indiana Judicial College, a 2012 graduate of the Indiana Graduate Program for Judges, and a Fellow of the American Bar Foundation.

Judge Brown served as judge of the Dubois Superior Court from 1987 to 1998 and from January, 2005 to May, 2008. In the years before and between her tenure on the bench, she practiced law in Jasper and in Evansville, first as an associate, then as a senior litigator, and last as a solo practitioner.

Judge Brown earned a bachelor’s degree With Distinction from Indiana University in Bloomington in 1976, and her J.D. from the IU (now Maurer) School of Law in 1982. She was a teacher in the Jasper School Corporation for three years before entering law school.

A large part of her professional focus during her years on the trial court bench was on substance abuse issues. She initiated a countywide Alcohol and Drug program, created the Dubois County Drug Court, formed the county’s first Community Corrections Advisory Board, which oversees all work release, home detention, and community service programs, and served as President of the Dubois County Substance Abuse Council.

Judge Brown currently serves on the Appellate Practice Section Council, the Judicial System Improvement Committee, and the Attorney Fee Dispute Resolution Committee of the Indiana State Bar Association; on the Alternative Dis-

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Rules of Appellate Procedure

Rule 7. Review Of Sentences

A. Availability. A defendant in a Criminal Appeal may appeal the defendant's sentence. The State may not initiate an appeal of a sentence, but may cross-appeal where provided by law.

B. Scope of Review. The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.

Indiana Appellate Rule 7(B) allows this court to revise a sentence otherwise authorized by statute if, “after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.”

The principal role of our review should be to attempt to level the outliers and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, not to achieve what we perceive to be a “correct” result in each case. *Fernbach v. State*, 954 N.E.2d 1080, 1089 (Ind. Ct. App. 2011), *trans. denied*.

The question under Appellate Rule 7(B) is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate. *Fonner v. State*, 876 N.E.2d 340, 344 (Ind. Ct. App. 2007). It is the defendant’s burden on appeal to persuade us that the sentence imposed by the trial court is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).